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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,332	12/13/2003	Thomas Haft	US20030356	1361
173 7590 03/24/2008 WHIRLPOOL PATENTS COMPANY - MD 0750 500 RENAISSANCE DRIVE - SUITE 102 ST. JOSEPH, MI 49085				
EXAMINER HECKERT, JASON MARK				
ART UNIT		PAPER NUMBER		
1792				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/734,332

Applicant(s)

HAFT ET AL.

Examiner

JASON HECKERT

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,5-10, 14-16 and 27-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,5-10, 14-16 and 27-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Due to the applicant's amendments to the claims, the previous rejections are rendered moot.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 27, 2, 5-6, 9-10, 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Milocco in view of Marcussen. Milocco discloses a door for a standard dishwashing machine comprising a housing and wash chamber (col. 2 lines 47-56). A spray arm and pump assembly are considered to be inherent, or at the very least, obvious modifications as they, along with a sump, are very common means to spray and circulate wash water onto crockery. The door comprises various wash aid dispensers 7, 8, and 9. A liquid delivery system delivers water from at least one of an external supply or the wash chamber to said dispensers via a first hose portion carried by the housing, and a second hose portion carried by the door. The door is hinged at 4, a lower portion of the housing where the first and second hose portion mate. Milocco discloses valve 11 located near the hinge axis of the door. This valve has control means (col. 3 line 13) for controlling flow to at least one bulk aid dispenser 7 via passage 10 located in the door. Milocco does not disclose a continuous liquid conduit,

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wherein part of the conduit is extendable to accommodate the opening and closing of the door. Marcussen discloses a continuous conduit connecting the interior of a machine to the door of a dishwasher. This conduit is not disclosed as being extendable, but the examiner feels that in order for the device of Marcussen to work properly, it *must* be, and is therefore inherently extendable. If it were rigid, the door would not be able to open as seen in figures 1 of Marcussen. Therefore, Milocco shows that it is known to have a conduit travel through the interface of the door and the housing, and Milocco shows how a conduit can be continuous as well as accommodate opening and closing of the door. It would have been obvious at the time of the invention to modify Milocco, and include an extendable continuous conduit, as disclosed by Marcussen, as it is a functional equivalent device that allows for transport of fluid to the door while still allowing the door to open and close.

4. Claims 7-8, 14-15 are rejected as being unpatentable over Milocco in view of Marcussen and further in view of Lim et al (Lim). Milocco discloses that it was known at the time of the invention to include a wash aid dispenser in the door of a washing machine, and fluidly couple it to the water source through the door/housing interface. Water is supplied through a valve. Marcussen discloses a continuous extendable conduit connecting the interior of a machine to the door of a dishwasher. Neither disclose a selectively actuatable multiple outlet valve. Lim discloses a washing machine comprising a multiple outlet valve 60 that receives water and selectively distributes it to spray mechanisms or a bulk detergent dispenser 52. Multiple discrete passages 170 and 172 lead to the different parts of the dispenser. Lim does not disclose locating the

dispenser in the door. However, the claimed elements were known in the prior art and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. It would have been obvious at the time of the invention to modify Milocco in view of Marcussen, as stated above, and further include a selective multiple outlet valve, as disclosed by Lim, in order to distribute fluid to the dispenser via multiple conduits located in the door.

5. Claims 28-29 rejected under 35 U.S.C. 103(a) as being unpatentable over Milocco in view of Lim et al (Lim). Milocco discloses that it was known at the time of the invention to include a wash aid dispenser in the door of a washing machine, and fluidly couple it to the water source through the door/housing interface. Water is supplied through a valve. Lim discloses a washing machine comprising a multiple outlet valve 60 that receives water and selectively distributes it to spray mechanisms or a bulk detergent dispenser 52. Multiple discrete passages 170 and 172 lead to the different parts of the dispenser. Lim does not disclose locating the dispenser in the door. However, the claimed elements were known in the prior art and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. It would have been obvious at the time of the invention to modify Milocco and include a selectively multiple outlet valve, as disclosed by Lim, in order to distribute fluid to the dispenser via multiple conduits located in the door.

6. In regards to claim 29, the applicant discloses a second multiple outlet valve. Examiner does not believe this to be a patentably distinct feature over the presented prior art. In the applicant's invention, water is selectively sent to the sprayer or the

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dispenser via one valve, and if sent to the dispenser, selectively sent by a second valve to one of two conduits heading to the dispenser. In essence, there are three potential outputs, the sprayer, or one of the two conduits heading to the dispenser. Lim discloses one selectively actuable valve that is fully capable of sending water to three different areas, including the sprayer, and one of two conduits heading to the dispenser. Thus, the examiner doesn't find a patentable distinction between including one valve performing that function, or two valves performing that function. Valves are very common in the art, and one of ordinary skill is capable of implementing them to divert fluid as needed.

7. Claim 30-32 rejected under 35 U.S.C. 103(a) as being unpatentable over Milocco. Milocco discloses a mating portion that forms a seal between the first two portions of the conduit when the door is closed (col. 3 lines 35-39 and figure 1). When the portions come together, an integral conduit is formed. Milocco discloses that the mating portion can be a male/female coupling type readable on fluid coupling, or a flexible watertight seal readable on a third hose portion. Thus, Milocco discloses a fluid coupling connecting two portions of a conduit when the door is closed. However, Milocco does not disclose the device being located to function as a slide rail with a basket. This is viewed as nothing more than a rearrangement of the location of the fluid conduit, and thus is a rearrangement of parts presented in the prior art. Rearrangement of parts was held to have been obvious. *In re Japikse* 86 USPQ 70 (CCPA 1955). Furthermore, using the conduit as a slide rail is considered to be intended use. The manner in which an apparatus operates is not germane to the issue of patentability of

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the apparatus itself. *Ex parte Wikdahl* 10 USPQ 2d 1546, 1548 (BPAI 1989); *Ex parte McCullough* 7 USPQ 2d 1889, 1891 (BPAI 1988); *In re Finsterwalder* 168 USPQ 530 (CCPA 1971); *In re Casey* 152 USPQ 235, 238 (CCPA 1967). Furthermore, apparatus claims cover what a device is, not what a device does. *Hewlett-Packard Co. v. Bausch & Lomb Inc.* 15 USPQ 2d 1525 (Fed. Cir. 1990); *Demaco Corp. v. F. Von Langsdorf Licensing Ltd.* 7 USPQ 2d 1222, 1224-1225 (Fed. Cir. 1988).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
9. US Publication 2003/0051513 to Castelli et al. Castelli shows a water distributor that can selectively send water to different dispensers via multiple conduits.
10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON HECKERT whose telephone number is (571)272-2702. The examiner can normally be reached on Mon. to Friday, 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Barr/
Supervisory Patent Examiner, Art
Unit 1792

JMH